

MINUTES OF SPECIAL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
PAGE AUDITORIUM
PAGE, NORTH DAKOTA
JUNE 25, 2014

The Maple River Water Resource District met on June 25, 2014, at 9:00 a.m. at the Page Auditorium, Page, North Dakota.

Present were Rodger Olson, Chairman; Jurgen Suhr, Manager; Gerald Melvin, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Brittany C. Moen, Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Mike Opat, Engineer for the Board; Craig Reiner and Frank Little, Reiner Contracting, Inc.

Minutes

It was moved by Manager Melvin, seconded by Manager Suhr and unanimously carried to approve the minutes of the June 5, 2014, meeting.

Pontiac Township Improvement District No. 73

The Board submitted a claim for liquidated damages against Reiner Contracting, Inc. regarding Pontiac Township Improvement District No. 73. Craig Reiner expressed that a diligent effort to get the work done on schedule is being made, but weather conditions have made it impossible to remain on track. Mr. Reiner said the amount of retainage held by the Board is a financial burden. The Board explained that they have a responsibility to protect the landowners that voted for and will benefit from the project. The completion date of the project is December 1, 2014.

It was moved by Manager Olson and seconded by Manager Suhr to release progress payments to Reiner Contracting, Inc. for work completed on Pontiac Township Improvement District No. 73, subject to Reiner Contracting, Inc. entering into a *Stipulation* to resolve issues regarding Phase I, the Reiner Contracting, Inc. Claim and the Maple River Water Resource District Claim, provided the Water Resource District preserves its rights to later assess liquidated damages regarding Phase I. Reiner Contracting, Inc. would also retain its right to invoke dispute resolution procedures. Upon roll call vote, the motion carried unanimously.

Garsteig-Embden Maintenance District

Mr. Opat reviewed discussions from the Garsteig-Embden Maintenance District public hearing held on June 5th. He explained that the maintenance district needs to be voted on by the Maple River Water Resource District and the Cass County Commission. The Cass County Commission will consider the matter at its July 7th meeting. Additional minutes relating to the matter are attached hereto.

Lake Bertha Flood Control Project No. 75

Mr. Opat will present information regarding Lake Bertha Flood Control Project No. 75 at tomorrow's Cass County Joint Water Resource District meeting. The Cass County Joint Water Resource District will be asked to take the lead on the project.

Drainage complaint from Rick Kensok against Todd Weber in the S 1/2 of Section 24 in Wheatland Township

Mr. Opat reviewed a drainage complaint from Rick Kensok against Todd Weber in the S 1/2 of Section 24 in Wheatland Township. The Board will look into the matter and discuss it further at the next meeting.

Application to Install a Subsurface Drain #20144 for Randy Kasowski in the NE 1/4 of Section 17 in Wheatland Township

The Board reviewed *Application to Install a Subsurface Drain No. 20144* dated June 7, 2014, for Randy Kasowski. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the "statewide" elements; therefore, the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the NE 1/4 of Section 17 in Wheatland Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge directly into a branch of Swan Creek in the NE 1/4 of Section 17.

Because the proposed project will discharge directly into a branch of the Swan Creek, a natural watercourse, the application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners.

According to records on file with the Cass County Recorder's Office, Randy Kasowski, individually, and Randy and Lori Kasowski, as joint tenants, own the NE 1/4 of Section 17 in Wheatland Township.

It was moved by Manager Melvin and seconded by Manager Suhr to approve *Application to Install a Subsurface Drain No. 20144* dated June 7, 2014, for Randy Kasowski in the NE 1/4 of Section 17 in Wheatland Township, subject to the following conditions:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant provide and maintain adequate erosion protection at any and all outlets into the branch of the Swan Creek;
- 3) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

4) That Applicant notify the Maple River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application;

5) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #20145 for Paul Faught and Steve Link in the SE 1/4 of Section 22 and the SE 1/4 SW 1/4 of Section 23 in Wheatland Township

The Board reviewed *Application to Install a Subsurface Drain No. 20145* received by the Board on May 8, 2014, for Paul Faught and Steve Link. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the “statewide” elements; therefore, the Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer’s Office to consider and approve). Under the application, Applicants seek to install a drain tile system in the S 1/2 of Section 23 in Wheatland Township, Cass County, North Dakota. The project will include three outlets. The first outlet will discharge directly into the tile system in the N 1/2 of Section 23 in Wheatland Township, a tile permit approved by the Maple River Water Resource District in 2013, *Tile Permit No. 20131*, a project owned and operated by Adrian and Mark Kieffer. The second outlet is a gravity outlet in the southeast corner of Section 23 that will discharge into the west township road ditch of the north-south township road along the Section 23/24 section line; the tile discharge will flow south in the west township road ditch along the east boundary of Section 26 until the tile discharge reaches the Cass County Highway 10 road ditch; the tile discharge will then flow southeast along and through the Highway 10 north road ditch, through the S 1/2 of Section 25. The third outlet will discharge into an existing ditch in the SE 1/4 of Section 23, until discharging into the north road ditch of the east-west township road along the south boundary of the SE 1/4 of Section 23; the tile discharge will flow east until turning south at the southeast corner of Section 23 in the west township road ditch along the east boundary of the SE 1/4 of Section 23; the tile discharge will then flow south through the west township road ditch, with the tile discharge from the second outlet.

The District previously provided *Thirty-Day Notices* to landowners in accordance with N.D. Cent. Code Section 61-32-03.1. Truman Kingsley, on behalf of Connie Kingsley, submitted written comments regarding the project.

According to records on file with the Cass County Recorder’s Office, Paul Faught owns the S 1/2 of Section 23, with the exception of a farmstead along the south boundary of Section 23 owned by James and Arlene Kieffer. Further, Adrian and Mark Kieffer own

the N 1/2 of Section 23; Connie Kingsley owns the E 1/2 of Section 26; and the Cass County Highway Department owns its highway right of way along Highway 10.

It was moved by Manager Melvin and seconded by Manager Suhr to approve *Application to Install a Subsurface Drain No. 20145* for Paul Faught and Steve Link in the S 1/2 of Section 23 in Wheatland Township, subject to the following conditions:

1) That Applicants obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the following parcels in Wheatland Township, Cass County, North Dakota:

a. E 1/2 E 1/2 of Section 26;

2) That Applicants obtain and record (with the Cass County Recorder's office) a permanent easement (and not just a written consent) that permits Applicants to utilize the tile system in the N 1/2 of Section 23 in Wheatland Township, Cass County, North Dakota, as an outlet for Applicants' tile system;

3) That Applicants obtain easements from the owner of any land, besides land owned by Applicants, on which Applicants will construct the tile system;

4) That Applicants obtain written permission from the Wheatland Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;

5) That Applicants obtain written permission from Cass County to discharge into, or otherwise utilize, any of its county highway right of way, or to bore through its highway;

6) That Applicants notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

7) That Applicants notify the Maple River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and

8) That Applicants obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #20147 for James Wieland in the SE 1/4 of Section 22 and the SW 1/4 of Section 23 in Davenport Township

The Board will discuss *Application to Install a Subsurface Drain #20147* for James Wieland in the SE 1/4 of Section 22 and the SW 1/4 of Section 23 in Davenport Township after more information is received from the applicant.

Application to Install a Subsurface Drain #20148 for Bradley Kellerman and David and Teresa Braaten Farms in the N 1/2 and the W 1/2 SW 1/4 of Section 18 in Davenport Township

Mr. Opat reviewed *Application to Install a Subsurface Drain #20148* for Bradley Kellerman and David and Teresa Braaten Farms in the N 1/2 and the W 1/2 SW 1/4 of Section 18 in Davenport Township. *Thirty-Day Notices* have been sent out to downstream landowners.

Application #6665 for Noah Nelson to divert and appropriate water from ground water sources to irrigate 405.0 acres in the SW 1/4 of Section 17 and in the NW 1/4 and SW 1/4 of Section 20 in Rich Township

It was moved by Manager Melvin and seconded by Manager Suhr to authorize the Water Resource District Engineer to review and submit comments, if necessary, on Application #6665 for Noah Nelson to divert and appropriate water from ground water sources to irrigate 405.0 acres in the SW 1/4 of Section 17 and in the NW 1/4 and SW 1/4 of Section 20 in Rich Township. Upon roll call vote, the motion carried unanimously.

Utility Permit for Cass County Electric Cooperative to install underground power cable across Coburn Township Drain #2 in Section 35 of Watson Township

It was moved by Manager Suhr and seconded by Manager Melvin to approve the *Utility Permit* for Cass County Electric Cooperative to install underground power cable across Coburn Township Drain #2 in Section 35 of Watson Township, with conditions provided by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Utility Permit for Otter Tail Power Company to install overhead power line across Drain #14 in the E 1/2 SW 1/4 of Section 17 in Mapleton Township

It was moved by Manager Suhr and seconded by Manager Melvin to approve the *Utility Permit* for Otter Tail Power Company to install overhead power line across Drain #14 in the E 1/2 SW 1/4 of Section 17 in Mapleton Township, with conditions provided by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Utility Permit for Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy for construction of the CapX20/20 transmission line over Drain #14 in Section 19 of Warren Township

It was moved by Manager Suhr and seconded by Manager Melvin to approve the *Utility Permit* for Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy for construction of the CapX20/20 transmission line over Drain #14 in Section 19 of Warren Township. Upon roll call vote, the motion carried unanimously.

Weed control

It was moved by Manager Suhr and seconded by Manager Melvin to hire Larson Helicopters, LLC, to spray Maple River Water Resource District facilities in 2014. Upon roll call vote, the motion carried unanimously.

Meeting procedures

It was moved by Manager Suhr and seconded by Manager Melvin to approve the Maple River Water Resource District *Meeting Procedures, Policies and Practices*. Upon roll call vote, the motion carried unanimously.

Review of open meeting laws

Mr. Fredricks reviewed open meeting laws with the Board.

Project WET 2014 – sponsorship of educators/youth leaders

It was moved by Manager Melvin and seconded by Manager Suhr to sponsor one educator / youth leader within the Maple River Water Resource District to attend a Project WET Program in 2014. Upon roll call vote, the motion carried unanimously.

Approve the Pledges of Assets

It was moved by Manager Melvin and seconded by Manager Suhr to approve the following Pledge of Assets:

Alerus Financial (as per agreement of March 7, 1996)

Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Melvin and seconded by Manager Suhr to approve the payment of Checks #5242 through #5253, #5255 and the electronic funds transfer, as presented. Upon roll call vote, the motion carried unanimously.

Drain #34 – washout in Section 18 of Davenport Township

It was moved by Manager Suhr and seconded by Manager Melvin to authorize Moore Engineering, Inc. to hire a contractor to repair the washout in front of the wooden bridge on Drain #34 in Section 30 of Normanna Township. Upon roll call vote, the motion carried unanimously.

Cass-Richland Drain #1 repair work

The Board previously authorized the installation of culverts where there are open ditches into Cass-Richland Drain #1 in Sections 1 and 2 of Barrie Township to alleviate erosion issues. A landowner has since requested that flap gates be installed on the new culverts.

It was moved by Manager Suhr and seconded by Manager Melvin to authorize Moore Engineering, Inc. to install flap gates on the new culverts into Cass-Richland Drain #1 in Sections 1 and 2 of Barrie Township in Richland County. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Suhr, seconded by Manager Melvin and unanimously carried to adjourn the meeting.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer